

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OSCAR GILBERTO PATINO,

Plaintiff,

v.

CRAIG KOENIG,

Defendant.

Case No. 19-cv-04462-SVK

**ORDER DIRECTING SERVICE BY
CLERK ON CALIFORNIA ATTORNEY
GENERAL**

On August 1, 2019, Petitioner Oscar Patino filed a petition for writ of habeas corpus (the “Petition”). ECF 1. On October 28, 2019, the Court issued an Order to Show Case (the “OSC”) that included the following requirements: (1) “Petitioner shall serve Respondent [Craig Koenig] and Respondent’s attorney, the Attorney General of the State of California, with a copy of this order and the petition with all attachments”; and (2) “[t]he Clerk shall send a notice to Respondent regarding consenting to or declining the jurisdiction of a magistrate judge.” Dkt. 5.

On October 28, 2019, the Clerk sent a consent/declination form to the Attorney General of the State of California (the “California AG”). Dkt. 7.

Respondent has not yet appeared in this action, filed a response to the Petition, or filed a completed consent/declination form. On February 3, 2020, the Court ordered Petitioner to provide a status report. Dkt. 8. Petitioner filed a response, stating that Respondent had been served with the Petition and the OSC on November 26, 2019 and that “the deadline for the respondent’s answer, to the best knowledge of petitioner’s counsel, is February 25, 2020.” Dkt. 9. Petitioner’s status report included a receipt showing payment for “Click-N-Ship” service on November 26, 2019, but the receipt did not identify the recipient or contents of the mailing. *Id.*

On March 10, 2020, when Respondent still had not made an appearance or filed a response to the Petition, the Court issued a notice setting a telephonic status conference for March 17, 2020.

1 Dkt. 10. Following the status conference, at which Petitioner's counsel appeared by telephone and
2 Respondent did not appear, the Court ordered Petitioner to file a proof of service of the Petition
3 and the OSC that contained the information required under Civil Local Rule 5-5(a)(2), *i.e.*, the
4 date, place and manner of service and the names, street address, or electronic address of the
5 persons served, certified by the person who made service. Dkt. 12.

6 On March 20, 2020, Petitioner filed a proof of service indicating that the Petition, the OSC,
7 and other documents had been served by mail on Respondent on November 26, 2019. Dkt. 14.
8 The proof of service did not state that service had been made on the California AG, as required
9 under the OSC. *See* Dkt. 5.

10 For the avoidance of further delay, the Court ORDERS the Clerk of Court to serve the
11 following on the Attorney General of the State of California:

- 12 (1) The Petition with all attachments (Dkt. 1);
13 (2) The Court's October 28, 2019 Order to Show Cause (Dkt. 5);
14 (3) Another copy of the consent/declination notice; and
15 (4) A copy of this order.

16 **SO ORDERED.**

17 Dated: March 24, 2020

18 

19 SUSAN VAN KEULEN
20 United States Magistrate Judge
21
22
23
24
25
26
27
28